

(2) the date on which the impediment to making a motion created by governmental action in violation of the Constitution or laws of the United States is removed, if the movant was prevented from making a motion by such governmental action;

(3) the date on which the right asserted was initially recognized by the Supreme Court and made retroactively applicable to cases on collateral review; or

(4) the date on which the facts supporting the claim or claims presented could have been discovered through the exercise of due diligence.

28 U.S.C. § 2255(f).

Here, Petitioner's motion appears untimely and Petitioner does not address why his motion should not be dismissed on those grounds. The Court will grant Petitioner twenty (20) days in which to provide an explanation as to why the instant Section 2255 petition should not be dismissed as untimely, including any reasons why equitable tolling should apply. See Hill v. Braxton, 277 F.3d 701, 706 (4th Cir. 2002); United States v. Blackstock, 513 F.3d 128, 133 (4th Cir. 2008) (remanding to district court pursuant to Hill for determination of timeliness of § 2255 Motion).

III. Penalty of Perjury

Petitioner also failed to sign his petition under penalty of perjury. Within twenty (20) days of service of this Order, Petitioner must sign the petition under penalty of perjury and resubmit it in accordance with Rule 2(b)(5) of the Rules Governing § 2255 Proceedings.

The Petitioner is further instructed to complete, in full, the proper Section 2255 form that will be sent by the Clerk to the Petitioner. Petitioner's failure to return the Section 2255 form, signed under penalty of perjury and explaining why his petition should not be dismissed as untimely, within twenty days of service of this Order, may result in dismissal of this action without prejudice.

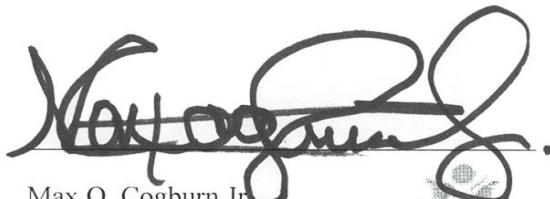
The Court will assess whether Petitioner has asserted a colorable claim under § 2255 should Petitioner chose to refile his petition on the proper form, signed under penalty of perjury, and explaining why his motion should not be dismissed as untimely.

IT IS, THEREFORE, ORDERED that:

(1) Petitioner shall have twenty (20) days from entry of this Order in which to explain to the Court why the Section 2255 Motion to Vacate should not be dismissed as untimely and to return a copy of the Section 2255 Motion to Vacate, signed under penalty of perjury. The explanation as to timeliness shall be included on the Section 2255 form that is being sent to Petitioner. If Petitioner does not submit such signed Motion to Vacate within twenty (20) days from entry of this Order, the petition may be dismissed without further notice.

(2) The Clerk of Court is instructed to mail Petitioner a blank Section 2255 form.

Signed: November 19, 2020



Max O. Cogburn Jr.
United States District Judge